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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/675,097

09/30/2003

Andrew Jarabek

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16380ROUS0

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7590

09/27/2006

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EXAMINER

RADOSEVICH, STEVEN D

ART UNIT

PAPER NUMBER

2138

DATE MAILED: 09/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<p align="center">Advisory Action Before the Filing of an Appeal Brief</p>	Application No. 10/675,097	Applicant(s) JARABEK ET AL.	
	Examiner Steven D. Radosevich	Art Unit 2138	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 06 September 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
 b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
 (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
 (b) ☐ They raise the issue of new matter (see NOTE below);
 (c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
 5. ☐ Applicant's reply has overcome the following rejection(s): _____.
 6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
 7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
 The status of the claim(s) is (or will be) as follows:
 Claim(s) allowed: _____.
 Claim(s) objected to: _____.
 Claim(s) rejected: 1-8, 11-18 and 21-26.
 Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

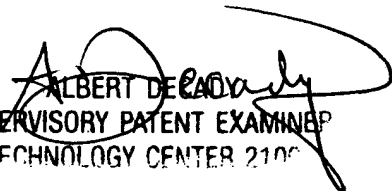
8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____
 12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____
 13. ☐ Other: See Continuation Sheet.

Continuation of 13. Other: Applicant's arguments filed 09/06/2006 have been fully considered but they are not persuasive. Applicant argues that the prior art cited and used within the prior examinations does not suggest all the claim limitations as combined within the 103 rejections, nor does there exist some suggestion or motivation to modify the references or to combine reference teachings. As per applicant's argument pertaining the claim limitations not being suggested by the prior art, the examiner would like to direct the applicant to column 3 lines 7-9, column 4 lines 13-15 and 32-38, and column 5 lines 59-62 within Loaiza (U.S. Patent 6928607 B2). Loaiza discloses specifically at column 5 storing the data block in one or more disks, which "suggests" as was well known at the time of the invention that the data block may be divided and stored among a number of disks. The dividing of the data block over a number of disks decrease each disks overhead as is disclosed at column 3 along with the data block recovery time. Those of ordinary skill in the art at the time the invention was made would recognize that dividing the data block amount its different components such as in the instant case with the data and the checksum is well known. The division of the data block among the different disks maintains, "... associating a constant checksum value with the data ..." which is a fundamental principle of Loaiza's invention such as is disclosed in column 4 lines 32-38. Clearly Loaiza suggests the limitation(s) applicant argues is/are not suggested in-order to reduce the overhead per disk. The motivation to combine was clearly present in the Loaiza U.S. Patent 6928607 B2 and Lemone U.S. Patent 4141765 references. One such motivation would be if the Loaiza 6928607 B2 patent "discloses or suggests in any manner [, the] reducing of overhead within storing and retrieving data from a disk." Such is found at as is described in detail above and in column 3, lines 7-9. Loaiza states, "... there is a need for ... reducing the overhead that is typically associated with storing and retrieving data ..." We find that as described above Loaiza achieves the reduction in overhead while maintaining fundamental principles of the invention is a specific motivation. One such fundamental principle as stated above that is maintained is the "associating a constant checksum value with the data ..." Therefore, Loaiza provides a specific motivation to combine the Loaiza and Lemone references.

In addition to this specific suggestion, one of ordinary skill in the art may find a motivation to combine prior art references in the nature of the problem to be solved. Ruiz v. A.B. Chance Co., 357 F.3d 1270, 1276, 69 USPQ2d 1686, 1690 (Fed. Cir. 2004); Also Pro-Mold & Tool Co. v. Great Lake Plastic Inc., 75 F.3d 1568, 1573, 37 USPQ2d 1626, 1630; In re Huang, 100 F.3d 135, 139 n.5; 40 USPQ2d 1685, 1688 n.5 (Fed. Cir. 1996). Loaiza teaches the invention that relates to data integrity in computer applications and more specifically to a data integrity verification mechanism for reducing overhead. See Loaiza at column 3 lines 7-9 and the above. Lemone at column 2 lines 2-4 teaches simplifying "the error detection hardware and reducing the cost of the overall error detection system." Loaiza is directed to solving the problem of reducing overhead typically associated with storing and retrieving data which as described above, reduces the data block recovery time which, reduces the cost of checking the data within the data block since the entire processes is executed in less time. We find that the nature of the problem to be solved also provides more than sufficient motivation to combine the prior art references.


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